

In re ) Fair Hearing No. 11,893  
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Appeal of )

The petitioner appeals a decision by the Department of Social Welfare denying his application for emergency assistance to pay his back rent under the Aid to Needy Families with Children (ANFC) program.

1. The petitioner, who is a disabled man, lives with his wife, seventeen-year-old daughter, and his daughter's male friend. The family's sole sources of income are SSI of \$490.55 per month and ANFC of \$523.00 per month. The petitioner also receives \$106.00 per month in Food Stamp benefits. On April 11, 1993, the petitioner's daughter will turn eighteen and, as the petitioner does not dispute, the family will no longer be eligible for ANFC as of May 1, 1993 because they will no longer have a minor dependent child.<sup>1</sup>

2. The petitioner has leased a house for about two years which rents for \$625.00 per month. In addition to this expense, the petitioner has the following monthly expenses:

Electricity           \$ 60.00 - \$100.00

<sup>1</sup> The petitioner's daughter is apparently no longer a high school student. If that situation should change, his eligibility for ANFC might be attested.

Fuel	\$160.00 (during winter months)
Phone	\$160.00 (includes back bills)
Truck Payment	\$200.00
Truck Insurance	\$ 35.00
TV/VCR Payment	\$ 55.00
Food	\$100.00 (amount spent above Food Stamps)
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TOTAL	\$770.00 - \$820.00

When added to the rent, the petitioner's total monthly financial obligation is \$1,395.00 - 1,435.00 per month.

3. A ledger recording the petitioner's rent payments since January of 1992, shows that he has been able to make the full monthly payment only four times and during four months made no payment at all. On April 14, 1992, the Department of Social Welfare paid the petitioner's overdue back rent of \$1,593.32. As of the date of the hearing in early April 1993, the petitioner was about \$3,800.00 behind in the rent.

4. The petitioner offered no explanation as to why he did not pay the rent other than that he had other expenses only mentioning the purchase of a vehicle with any specificity. It is obvious from the evidence, however, that the petitioner's monthly expenses and debts exceed his income, making it impossible for him to make all his monthly payments.

The petitioner has no plan for replacing the lost income other than perhaps to seek SSI for his wife whom he believes is incapable of working.

5. On March 4, 1993, the petitioner's landlord sent him a demand letter for \$3,161.50 with an alternative to leave by

March 19, 1993. On March 8, 1993, the petitioner applied to the Department for payment of the current March rent and the two prior months. The petitioner was denied at that time because the Department determined that payment of the back rent would not prevent but just postpone the petitioner's eviction. That decision was based on the fact that the petitioner was facing about a fifty percent income decrease in May which would bring his total income to an amount which is less than the rent alone. The Department also based the denial on the fact that the petitioner had already been assisted with back rent within the last year.

6. The petitioner realizes that he will probably be unable to pay rent at the house in the future. He has talked with his landlord about this and believes that his landlord will want him to leave the house so he can rent it to someone else, but may assist him by allowing him to put a trailer on the property. The petitioner apparently has a good relationship with his landlord as he collects rent for him at a nearby trailer park in exchange for the use of the barn for the petitioner's cow and horse (and, before slaughtering, his pigs). The petitioner was unsure whether his inability to pay some of the back rent would affect his ability to work out some other arrangement with the landlord. He does believe, however, that short of some arrangement with his current landlord, he will have a very difficult time finding somewhere to live because of the family's low income. He is also

experiencing difficulty trying to get a bank to loan him money for a trailer.

ORDER

The Department's decision is affirmed.

REASONS

The purpose of the ANFC-Emergency Assistance program is to "respond quickly to a crisis which threatens the destitution of children." W.A.M. § 2800. Assistance is restricted to the provision of "essential necessities during one period of not more than 30 consecutive days in any 12 month consecutive period." W.A.M. § 2800(A). The regulations spell out the kinds of assistance which can be given, including the payment of a rental or mortgage arrearage, as follows:

Rental (or Mortgage) Arrearage)

Families with children who face loss of shelter due to non-payment of back rent (or mortgage), and have received a "notice of termination" under 9 V.S.A. 4467 (a) (or "demand notice"), may be assisted with current rent (or mortgage) plus up to 2 months of back rent (or mortgage) providing all of the following criteria are met:

- a. the family meets all criteria for ANFC-EA eligibility, and
- b. the special state appropriation intended for this purpose has not been exhausted, and
- c. the landlord (or mortgage holder) agrees that, with this payment, any action intended to evict or otherwise cause this family to relocate will be terminated and will not be reinstituted on the basis of obligations remaining as of the date of payment, and

- d. there is a realistic probability that this assistance will actually prevent, rather than simply postpone, homelessness.

Denials based on exhaustion of funding will not require prior warning of funding status or amendment to this policy.

Payments made under this sub-section shall be for the actual monthly rental (or mortgage) obligations, disregarding maximums and prior payment periods as established in section 2813.1, but within such fiscal limits that condition d. above is met.

It is not intended that payment of 2 months rental arrearage (or mortgage payments) shall discharge the applicant's responsibility for any additional arrearage which may have accrued nor shall it impinge on any other legal means of collection of such debt, short of actual eviction (or foreclosure) or a payment plan leading to eviction (or foreclosure) through crediting current payments to the arrearage rather than the current payment due.

W.A.M. § 2813.3

It is clear from the petitioner's own testimony that payment of the rental arrearage in this case is very unlikely to prevent the relocation of the family as he and the landlord have both agreed that he will not be able to afford the rent in the future. In fact, the petitioner has made it clear that he is actively working on someplace else to live. Therefore, it cannot be concluded that payment of this back rent will prevent the relocation of this family. Since there is no evidence that the trailer housing plan is dependent on the payment of any back rent, it cannot be concluded either that paying the back rent will prevent homelessness. Both of these conditions must be met in order to receive the assistance

requested by the petitioner. See W.A.M. § 2813.3(c) and (d) above.

Since the conditions above have not been met, it is not necessary to consider the Department's other grounds for denying the petitioner. It should be noted, however, that the petitioner's assistance last April only disqualifies him from receipt of assistance through March of 1993, and not until April of 1993 as the Department argued. W.A.M. § 2801. Without other impediments, the petitioner could have been assisted beginning April 1, for rent that month and the two prior months. As of May 1, however, the family officially has no more dependent children for the ANFC program. Unless the family's homelessness would occur before that date--highly unlikely under the current time lines--the petitioner's request is particularly unsuited to this program which is specifically designed to assist families with dependent children. Suffice it to say that the petitioner's application under this program is fraught with difficulty.

It would be cynical indeed not to acknowledge here that the petitioner is in a crisis situation given the family's low income, their apparent inability to earn any additional money and the high cost of living which they, as every other family, must face. Unfortunately, however, the state does not have a program to assist every family with every crisis. There appears to be no program which would assist with back rent in

this circumstance. The petitioner should be aware that if he actually is faced with homelessness, he may be able to receive assistance with finding housing through application to the General Assistance program. He is also encouraged to apply for the federal SSI program for his wife.

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